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## LEGAL STATUS OF ONLINE MARKETPLACE OPERATORS

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**Abstract.** *This article analyzes the legal status of online platforms acting as intermediaries in the process of concluding electronic contracts. The study examines contemporary scholarly debates on defining the role and civil liability of information intermediaries within civil law relations. The author demonstrates that although online platforms were initially perceived as neutral information intermediaries, their growing involvement in setting trading rules, standardizing contractual terms, and actively influencing transaction processes reveals the limitations of this approach. The article examines the legal relationships between online platforms, sellers, and buyers from a civil law perspective and substantiates the need to apply a functional approach in determining platform liability. The research is conducted using a comparative legal methodology based primarily on European Union directives, with reference to relevant judicial practice concerning the liability of online platforms. The findings contribute both theoretically and practically to the improvement of legal regulation in the field of electronic commerce.*

**Keywords:** *electronic contract, information intermediary, online platform, electronic commerce, civil liability, European Union directives, functional approach*

### ONLAYN MARKETPLAYS OPERATORLARINING HUQUQIY MAQOMI

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Fanlararo amaliy tadqiqotlar markazi menejeri

**Annotatsiya.** *Mazkur maqolada elektron shartnomalarni tuzish jarayonida vositachi sifatida ishtirok etuvchi onlayn platformalarning huquqiy maqomi tahlil qilinadi. Tadqiqot doirasida axborot vositachilarining fuqarolik-huquqiy munosabatlardagi oʻrni va fuqarolik javobgarligini belgilashga doir zamonaviy ilmiy munozaralar oʻrganiladi. Muallif garchi onlayn platformalar dastlab xolis axborot vositachisi sifatida qabul qilingan boʻlsa-da, ularning savdo qoidalarini belgilash, shartnomaviy munosabatlarni standartlashtirish va bitimlar tuzish jarayonlariga faol taʼsir koʻrsatishda ishtiroki ortib borishi natijasida ushbu yondashuvning cheklanganini koʻrsatib beradi. Maqolada onlayn platformalar,*

sotuvchilar va xaridor o'rtasidagi munosabatlar fuqarolik huquqi nuqtayi nazaridan tahlil qilinib, platforma javobgarligini belgilashda funksional yondashuvni qo'llash zarurligi asoslanadi. Tadqiqot asosan Yevropa Ittifoqi direktivalariga tayangan qiyosiy-huquqiy tahlil metodi asosida olib borildi, bunda onlayn platformalarning javobgarligiga oid tegishli sud amaliyotiga havola qilindi. Tadqiqot natijalari elektron tijorat sohasida huquqiy tartibga solishni takomillashtirish uchun nazariy va amaliy ahamiyatga ega.

**Kalit so'zlar:** elektron shartnoma, axborot vositachisi, onlayn platforma, elektron tijorat, fuqarolik-huquqiy javobgarlik, Yevropa Ittifoqi direktivalari, funksional yondashuv

## ПРАВОВОЙ СТАТУС ОПЕРАТОРОВ ОНЛАЙН-МАРКЕТПЛЕЙСОВ

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**Аннотация.** В статье анализируется правовой статус онлайн-платформ, выступающих посредниками при заключении электронных договоров. Исследуются современные научные дискуссии относительно определения роли и гражданско-правовой ответственности информационных посредников в системе гражданских правоотношений. Автор показывает, что первоначальное восприятие онлайн-платформ как нейтральных информационных посредников утрачивает актуальность в условиях их возрастающего участия в установлении правил торговли, стандартизации договорных условий и активного влияния на процесс заключения сделок, что свидетельствует об ограниченности традиционного подхода. С гражданско-правовой позиции анализируются правоотношения между онлайн-платформами, продавцами и покупателями, обосновывается необходимость применения функционального подхода при определении объёма ответственности платформ. Исследование выполнено с использованием сравнительно-правовой методологии, преимущественно на основе директив Европейского союза, с учётом соответствующей судебной практики по вопросам ответственности онлайн-платформ. Полученные выводы имеют как теоретическое, так и практическое значение для совершенствования правового регулирования в сфере электронной коммерции.

**Ключевые слова:** электронный договор, информационный посредник, онлайн-платформа, электронная коммерция, гражданско-правовая ответственность, директивы Европейского союза, функциональный подход

### Introduction

The rapid growth of digital technologies over the past decade has fundamentally transformed the structure of commercial relations, leading to the emergence of electronic marketplaces that act as intermediaries between sellers and consumers on a large scale. Such online platforms increasingly influence the allocation of risk and responsibilities within private law. They are a central

figure in modern commerce, structuring access to markets and shaping contractual relationships. Occupying a key position in modern economic relations, online marketplaces simultaneously challenge traditional legal categories developed for offline commerce.

A defining characteristic of electronic marketplaces is the indirect nature of their involvement in transactions. These platforms do not formally act as sellers of goods and

services, but rather facilitate transactions and interactions between users through digital interfaces, standardized contractual terms and conditions and algorithmic tools. This functional difference often leads to uncertainty about the legal status of marketplace operators, in particular with regard to their role in contractual relations and liability for damages arising from transactions carried out through the platform.

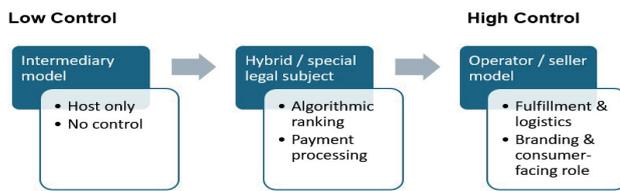
Legal scholarship remains divided, with different approaches to the qualification of online marketplace operators. The majority of scholars continue to view these platforms primarily as intermediaries, emphasizing their facilitative nature and the absence of contractual obligations towards consumers. On the other hand, the high degree of control exercised by platforms over key aspects of commerce (pricing, payment, fulfillment, and access to consumers) may justify their classification as operators, traders, or joint sellers. A relatively new position proposes the recognition of electronic marketplaces as separate legal entities, citing the inability of existing intermediary-seller dichotomies to adequately capture the specific hybrid functions (*Figure 1*).

In the Uzbek legal context, online platforms are not treated as neutral intermediaries, but are explicitly regulated as e-commerce operators. According to the Law of the Republic of Uzbekistan “On Electronic Commerce” (№ 792, 2022), marketplaces, aggregators and similar digital platforms are subject to mandatory registration and organization requirements (Republic of Uzbekistan, 2022). This approach is further reinforced by Resolution No. PP-885 (December 2025), which obliges platform operators to maintain the status of a local legal entity in Uzbekistan and to comply with consumer protection, data protection and advertising legislation;

platforms based abroad are prohibited from operating without local registration and may be sanctioned for non-compliance (Tashkent Times, 2026). A draft law planned for 2026 further refines the legal definitions of platform operators and aggregators, introduces enhanced transparency and competition obligations, and clarifies tax obligations (UzDaily.uz, 2026). Taken together, these developments indicate a shift away from intermediary-type immunity towards a functional allocation of liability, whereby the liability of platforms is linked to their organizational role and capacity to prevent harm, particularly in the context of consumer protection and the prevention of informal or “shadow” digital markets.

Such inconsistent classifications of these platforms lead to inconsistent legal outcomes across jurisdictions and legal regimes. Currently, the boundaries between the classifications of intermediaries, operators and hybrids remain fluid and highly context-dependent. This variability has direct implications for the allocation of contractual obligations, liability and the level of consumer protection afforded in transactions conducted through a platform.

Therefore, this article aims not only to review the main contemporary approaches to defining the legal status of e-marketplace operators, but also to critically assess their internal coherence and practical adequacy. It then pays particular attention to the extent to which traditional classifications of intermediaries remain viable in light of the functional control exercised by modern platforms. In doing so, the article argues that strict intermediary-seller dichotomies are increasingly insufficient to capture the legal reality of e-marketplaces, and that a more nuanced, function-based qualification of platform operators is needed within the framework of digital private law.



**Figure. Functional continuum of market control illustrating the instability of fixed legal classifications**

### Definitions and classifications

#### 2. 1. Intermediaries

The current dominant position in legal scholarship classifies online marketplaces as intermediaries. Under this approach, platforms are understood as services that allow business users to offer goods and services to consumers and facilitate transactions, rather than directly participating in the sale themselves. Often described as “virtual transaction spaces,” such platforms are not considered parties to the underlying contract between users and therefore bear no contractual obligations in relation to these transactions; Sørensen, for example, compares their role to that of a broker or advertising forum, especially when they simply host third-party content and charge a fee (Sørensen, 2018). The EU e-commerce rules and the Digital Services Act reflect this understanding by emphasizing functions such as data transfer, caching and hosting, and by treating online platforms as hosting service providers that store and distribute user information at their request (Filatova-Bilous, 2021). In private law, an intermediary platform is similarly described as an actor that “establishes contact between two parties” with varying degrees of involvement, but generally without assuming contractual obligations arising from the transaction itself (Table 1).

In Uzbek legal scholarship, electronic platforms are mostly discussed in the broader framework of electronic transactions and digital turnover, rather than as autonomous contracting parties. Sh. Ruzinazarov, for example, characterizes

online platforms as participants in digital civil turnover and emphasizes the need for enhanced consumer protection mechanisms, while pointing out the inadequacy of traditional civil law instruments when applied to transactions carried out through a platform (Ruzinazarov et al., 2023).

#### 2. 2. Operators

Conversely, some scholars and courts argue that these marketplaces should be recognized as operators or even sellers or joint traders, as they exercise “decisive influence” over key aspects of transactions, such as pricing, terms, performance or payment flows. In this vein, the European Law Institute’s Model Rules and the revised EU Product Liability Directive of 2024 also aim to treat these platforms as economic operators (e.g., fulfillment service providers) in certain cases, imposing liability on them where the manufacturer or importer responsible for the product cannot be identified (Fairgrieve et al., 2024). Abrosimova further identifies the role of marketplaces in exercising control over transactions and interactions with customers, noting that they may possess a level of agency similar to that of direct sellers (Abrosimova, 2024). Furthermore, US case law on product liability (e.g., *Oberdorf v. Amazon*) and European commentaries note that platforms may be “the only member of the marketing chain available for compensation,” thus justifying the imposition of liability similar to that of a seller in certain circumstances (De Chiara et al., 2025). The Law of the Republic of Uzbekistan “On Electronic Commerce” introduces the concept of an electronic commerce operator and imposes organizational and compliance obligations on digital platforms. S. Erkoboev defines marketplaces as “information systems enabling remote purchase/sale of goods/services,” distinguishing operators (legal entities providing platform services) from simple information hosts, reflecting Article 1 of Law № 792 (Erkaboev, 2024).

Table 1

**Doctrinal approaches to the legal classification of online marketplace operators**

Approach	Legal status of the platform	Key classification criteria	Representative authors	Legal consequences (liability)
<b>Intermediate model</b>	Mediator / hosting service provider	Formal non-participation in the contract; passivity; lack of knowledge or control over illegal activity; provision of technical infrastructure only	Sørensen (2018); Filatova-Bilous (2021); Bulgakova and Deruma (2020)	Broad exemptions from liability through safe harbor regimes; limited duty to monitor; liability arising mainly from gaps in the notification and action system
<b>Model Operator/ Salesman</b>	Operator, trader or joint seller	Decisive influence over essential elements of the transaction (pricing, terms, payment, performance); representation as a contractual counterparty	Kraulin (2022); Verbruggen & Ulfbeck (2022); Abrosimova (2024); De Chiara et al. (2025)	Seller-like liability or joint liability for defective products and consumer harm; extended duties of care and compliance
<b>Special legal entity (hybrid model)</b>	The platform as a separate legal entity with context-dependent status	Degree of functional control; ability to prevent harm; internalization of risk; algorithmic management; ecosystem-level impact	Lefouili & Madio (2022); Fairgrieve and others. (2024); Onianova (2025); Ruzinazarov and Achilova (2023)	Gradual or risk-based liability; tailored duties of care, transparency and monitoring; liability proportionate to participation, not formal status
<b>Uzbek doctrinal and legislative approach</b>	E-commerce operator	Registration, compliance obligations, functional responsibility	Ruzinazarov (2023); Achilova (2023); Erkoboiev (2024); Law № 792	Liability arising from the operator’s organisational and compliance obligations

*2.3. Special legal entities*

However, a growing body of research argues that neither the intermediary nor the operator classification fully captures the legal reality of online marketplaces, instead pointing to the need to recognize them as special legal entities. For example, A. Onianova presents a comparative analysis that shows that while marketplaces can be considered as intermediaries under existing laws, their operational complexity could justify a revision that recognizes them as distinct actors with specific rights and responsibilities (Onianova, 2025). The activities of online marketplaces extend beyond simple intermediation to include organizing markets, controlling data flows, and setting the rules of digital ecosystems

(Cohen, 2017). As a result, platforms can exert “overriding influence” on both sides of the market through mechanisms such as algorithmic curation, reputation systems, and standardized contractual terms. On this basis, scholars such as Lefuili and Madio argue for a tailored regulatory approach that combines “safe harbor” protections for intermediaries with tailored duties of care, transparency obligations, and risk-based responsibilities (Lefuili & Madio, 2022).

Although Uzbek legal doctrine does not explicitly formulate a sui generis or hybrid classification of market operators, many authors implicitly adopt a functional perspective. Sh. Ruzinazarov emphasizes the growing role of digital platforms in civil turnover, noting that

electronic transactions and online advertising are increasingly challenging traditional contractual mechanisms. According to him, platforms act as active participants in digital turnover, requiring clear legal rules to ensure consumer protection and transaction security, especially within the framework of the Digital Uzbekistan-2030 strategy. Together with L. Achilova, he emphasizes the hybrid nature of electronic transactions, which combine elements of civil law and information technology regulation, while pointing out gaps in law enforcement resulting from the lack of precise legal qualification of platform participants (Ruzinazarov et al., 2023).

These observations indicate that both foreign and Uzbek academic research are increasingly converging on the functional complexity of online marketplaces, even if they differ in terminology and conceptual framework. However, the practical application of intermediary, operator, and hybrid models continues to generate uncertainty and conflicting legal outcomes, as the boundaries between these classifications remain unstable and context-dependent. This in turn necessitates a critical examination of the internal coherence and practical adequacy of each model.

### **Main part**

#### *Critical analysis of doctrinal models*

##### *3.1. Degree of control over the transaction*

A central criterion for assessing the adequacy of existing doctrinal models is the degree of control exercised by online marketplace operators over transactions mediated by the platform. However, control is not limited to formal participation in the contract, but extends to the ability to shape the conditions under which transactions are carried out, including their visibility, execution and enforcement. From this perspective, the classification of intermediaries fails to recognize these

functions when applied to contemporary market practices.

The traditional intermediary model assumes that platforms play a largely passive role, limited to providing a technical infrastructure that enables contact between buyers and sellers (Filatova-Bilous, 2021). This assumption underlies the safe harbor regimes established in EU e-commerce legislation and confirmed by the Digital Services Act, which provide for exemption from liability in the absence of knowledge and control over illegal activity. The intermediary is thus conceptualized as a neutral intermediary or hosting service provider whose involvement does not extend beyond the storage and transmission of user-generated content.

However, this characterization increasingly diverges from the operational reality of large online marketplaces. In practice, platforms often exert decisive influence over key elements of the transaction, including the presentation and ranking of offers, the standardization of contract terms, the organization of payment systems, and, in many cases, the provision of logistics and fulfillment services. Algorithmic ranking mechanisms determine which products are visible to consumers, while standardized interfaces structure consumer choices and behavior. Such forms of influence go beyond mere facilitation and allow platforms to actively shape market outcomes.

This functional control challenges the assumption of passivity that underlies the intermediary model. Although platforms cannot formally enter into contracts in their own name, their ability to determine the terms under which contracts are concluded raises questions about the appropriateness of treating them as legally neutral actors. Verbruggen and Wolfbeck note that the distinction between “facilitation” and “control” becomes increasingly blurred when platforms systematically intervene in the

transactional process, rather than simply hosting third-party content (Verbruggen & Wolfbeck, 2022). The reality that platforms dictate terms and potentially prioritize their own content over that of others creates an environment in which their control can, in functional terms, resemble that of a traditional seller.

The operator-like or seller-like model responds to this tension by focusing on functional involvement rather than formal contractual status. When a marketplace exercises control comparable to that of a traditional trader, for example, setting material terms, managing payments or organizing performance – it becomes difficult to justify excluding it from legal liability on the basis of formal non-involvement alone. This reasoning is reflected in recent developments in product liability law, in particular in Directive (EU) 2024/2853 on liability for defective products, where platforms can be treated as economic operators when they perform functions that position them similarly to other actors in the supply chain (European Union, 2024). A striking example of this is found in the regulatory framework established by the proposed EU Law on Artificial Intelligence, which calls for increased accountability for platforms using algorithmic systems (European Commission, 2025). These provisions illustrate the recognition that such platforms not only facilitate transactions, but also actively shape the transactional environment in ways that can have a significant impact on both consumers and sellers.

At the same time, the degree of control exercised by markets is neither uniform nor static. Platforms can act as relatively passive intermediaries in some transactions, while in others they take a far more active role. Such variability points to the limitations of rigid categorical classifications that give a single legal status

to the platform as a whole, regardless of its specific involvement in specific transactions. Uzbek scholars such as Yakovenko A. similarly emphasize that platforms that structure transactions through standardized terms and centralized payment mechanisms cannot be treated as neutral intermediaries, especially in hybrid B2C/C2C models (Yakovenko, 2021).

In practice, for example, a marketplace may remain formally separate from third-party sales while imposing detailed terms on product listings, thereby shaping communication and expectations between consumers and sellers. In other cases, such as during promotional campaigns, platforms may take a more active role, organizing logistics or coordinating marketing efforts. This functional flexibility highlights the inadequacy of classifications based on an abstract notion of passivity.

Accordingly, the assessment based on the degree of transactional control reveals a structural weakness in the intermediary model: its reliance on an abstract notion of passivity that fails to adequately reflect the functional realities of contemporary online markets.

### *3.2. Risk allocation and ability to prevent harm*

A second crucial criterion for assessing doctrinal models on the legal status of online marketplace operators is the allocation of risk and the corresponding ability to prevent harm arising from transactions carried out through a platform. In private law, liability is traditionally linked not only to formal participation in contractual relations, but also to the participant's ability to foresee, monitor and mitigate risks. From this perspective, the classification of intermediaries raises concerns when it allocates liability away from the participants who, as described by the European Parliamentary Research Service, are best placed to prevent harm (Khambatta, 2021.).

(European Parliament Parliamentary Research Service, 2021). Under the intermediary model, marketplaces are largely insulated from liability, provided they neither control the content of transactions nor have sufficient knowledge of illegal activity. Safe harbor regimes reflect this logic, limiting liability when platforms act passively and respond promptly to notices. Kirk and Cullen therefore argue that this framework prioritizes the protection of innovation and the freedom to host user-generated content while minimizing monitoring obligations that could impose a disproportionate burden on digital service providers (Krik & Cullen, 2020).

However, this risk allocation is increasingly problematic in the context of large-scale online marketplaces. Unlike individual sellers or consumers, platform operators are “repetitive players” with centralized access to transaction data, technological tools for surveillance and the economic capacity to implement preventive measures. As highlighted in the European Parliamentary Research Service study, these structural advantages put platforms in a uniquely effective position to identify recurring patterns of illegal behavior, defective products or misleading practices and to intervene proactively through risk management mechanisms (European Parliament Parliamentary Research Service, 2021). However, the intermediary model often places the consequences of harm on consumers or third-party sellers, even when platforms have facilitated, structured or benefited from the transaction.

The mismatch between risk allocation and preventive capacity is particularly visible in cases involving defective products or illegal content. In such situations, consumers may face significant obstacles in identifying or pursuing claims against upstream actors, especially when sellers

are anonymous, foreign or economically insolvent. As De Chiara et al. note, the platform operator may in practice be “the only accessible and economically viable party capable of providing redress” (De Chiara et al., 2025). Attributing liability exclusively to third-party sellers in these circumstances risks undermining the effectiveness of consumer protection mechanisms.

In contrast, operator- and functional-oriented approaches emphasize the platform’s ability to internalize risks and allocate costs. From an economic and regulatory perspective, imposing liability on actors capable of preventing harm can create incentives to invest in monitoring, quality control, and compliance mechanisms. When platforms bear at least partial liability, Hua and Spear suggest, they are more likely to adopt preventive strategies, such as vetting sellers, restricting access to high-risk products, or intervening in transactions that pose increased risk to consumers, by internalizing the expected costs of harm (Hua & Spear, 2025).

Uzbek studies, including Lashina’s, also identify market operators as actors best positioned to prevent harm due to their centralized access to transaction data and monitoring tools, which justifies the allocation of liability on the basis of risk prevention (Lashina, 2026). At the same time, concerns remain that overly broad liability may discourage market entry or innovation, especially for smaller platforms. Scholars such as Verbruggen & Ulfbeck Fairgrieve et al. therefore advocate for graduated or risk-based liability regimes, in which liability increases in proportion to the degree of platform participation and control (Fairgrieve et al., 2024). (Verbruggen & Wolfbeck, 2022). Such approaches seek to avoid both extremes: absolute immunity under the intermediary

model and full liability of the seller, regardless of context.

Allocation of risk thus reveals another structural limitation of the classification of intermediaries. By prioritizing formal non-participation over functional capacity, one risks assigning liability to actors least able to prevent harm while protecting those who actively shape the transactional environment. This mismatch not only weakens consumer protection, but also challenges the coherence of intermediary-based liability frameworks in the context of modern digital markets.

### *3.3. Internal inconsistencies of the intermediate model*

Beyond issues of control and risk allocation, an assessment of the doctrinal models reveals internal inconsistencies, particularly within the intermediary classification, which remains the dominant framework for qualifying online marketplace operators. While the intermediary model is formally based on the assumption of platform passivity, its practical application increasingly relies on regulatory expectations and obligations that imply active participation in transaction processes. This tension undermines the conceptual coherence of intermediary-based classifications (*Table 2*).

At a doctrinal level, intermediary immunity is justified by the presumed neutrality of the platform and the lack of substantial involvement in consumer transactions. Safe harbor regimes condition the exemption from liability on the lack of knowledge and control, thus framing the intermediary as a technical intermediary rather than a market participant. However, this characterization does not fit comfortably into legal frameworks that simultaneously impose obligations for monitoring, risk mitigation, and cooperation with public authorities. The coexistence of immunity based on passivity and obligations based on activity reveals a structural contradiction in the intermediary model itself.

This discrepancy becomes particularly apparent when platforms are required to implement mechanisms for content moderation, vendor vetting, notice and action procedures, or product tracking. Such obligations implicitly recognize that marketplaces have both the capacity and the responsibility to intervene in transactions mediated by the platform. Yet, under the intermediary model, these same platforms continue to benefit from liability limitations that deny the legal relevance of their functional involvement. As a result, the law oscillates between treating platforms as neutral hosts and as active regulators of digital markets.

The intermediary model is further challenged by the differentiated roles that platforms play in different legal contexts. A marketplace may be classified as an intermediary for the purposes of information society regulation while at the same time being treated as an economic operator under product liability rules or as a regulated entity under consumer protection law. This fragmentation not only reflects regulatory pluralism, but also reveals the inability of a single intermediary status to take into account the multifaceted functions of the platform. Maintaining a single classification tends to obscure rather than clarify the legal position of market operators.

Taken together, these inconsistencies suggest that the intermediary model no longer provides a coherent framework for regulating online markets. Its underlying assumption of passivity is difficult to reconcile with contemporary regulatory expectations and practices of platforms. While intermediary classifications may still retain their relevance in narrowly defined contexts, their generalized application to contemporary markets risks leading to fragmented, inconsistent, and normatively unstable legal outcomes.

Table 2

**Comparative assessment of doctrinal models for legal qualification of online marketplace operators**

Criterion	Intermediate model	Model Operator/ Salesman	Special legal entity (hybrid model)
<b>Degree of control over the transaction</b>	Assumes platform passivity; platform is limited to hosting and facilitating contact between users; no legally relevant control over transaction terms	Emphasizes decisive influence over pricing, payment, performance, or contractual terms; the platform is treated as a market participant	Evaluates control contextually; the role of the platform varies depending on the specific transaction and functions performed
<b>Allocation of risk and liability</b>	Responsibility is primarily placed on third-party sellers; the platform benefits from safe-zone protections	Responsibility is transferred to the platform as a merchant or co-seller	Risk is distributed proportionally to the platform’s involvement and capacity to influence outcomes
<b>Ability to prevent harm</b>	Limited preventive obligations; reliance on notice and action mechanisms	Strong preventive obligations; the platform is incentivized to monitor and control transactions	Graduated preventive obligations based on the functional role and technological capacity of the platform
<b>Conceptual coherence</b>	Relies on an abstract assumption of neutrality and passivity; increasingly incompatible with platform practices	Risks of overextension of liability when platform participation is limited	Maintains coherence by aligning legal qualification with factual relevance
<b>Regulatory compliance</b>	Fragmented application across legal regimes; intermediary status varies depending on context	More consistent within specific liability regimes, but difficult to generalize	Compatible with differentiated regulatory frameworks and modern platform management
<b>Uzbek legal context</b>	Largely rejected	Reflected in the legal concept of «e-commerce operator»	Implicitly supported by functional regulation and doctrine

*Hybrid approach to the legal status of market operators*

The preceding analysis shows that neither the traditional intermediary model nor the operator- or seller-based classification, when applied in isolation, adequately reflects the legal reality of modern online marketplaces. (Verbruggen & Wolfbeck, 2022). Although classifications of intermediaries remain influential in information society regulation, their reliance on assumptions of platform passivity has proven difficult to sustain given the degree of control, risk allocation and regulatory obligations that characterize modern platforms. At the same time, treating

marketplaces in a uniform and collaborative manner as sellers or co-sellers risks over-extending liability in contexts where platform involvement remains limited.

Against this backdrop, a functional or hybrid approach to the legal qualification of online marketplace operators emerges as the most consistent and normatively defensible framework. Rather than ascribing a single, abstract legal status to the platform as a whole, this approach assesses the role of the platform based on its specific functions within specific transactional contexts (Verbruggen & Wolfbeck, 2022). Legal liability is thus linked not only to

formal contractual involvement but also to the platform's actual capacity to shape transactions, prevent harm, and influence market outcomes, as proposed by Lefouili & Madio (2022) and Onianova (2025).

From a private law perspective, such an approach combines liability with control. Where the platform merely provides a technical infrastructure without influencing the terms of exchange, liability limitations similar to those of intermediaries may remain appropriate. However, where the platform standardizes contractual terms, controls payment flows, organizes performance or algorithmically structures access to users, its role increasingly resembles that of an economic operator. In these circumstances, the exclusion of the platform from liability on the basis of formal non-participation becomes difficult to justify.

The functional approach also offers a more consistent solution for the allocation of risk in platform transactions. As shown in Section 3, large marketplaces have centralized access to transaction data, monitoring technologies, and economic resources that allow them to detect patterns of illegal behavior and prevent harm more effectively than individual users or third-party sellers. According to Hua & Spier, assigning liability proportional to this preventive capacity not only improves consumer protection, but also creates incentives to invest in compliance, quality control, and risk management mechanisms (Hua & Spear, 2025). In this sense, the hybrid qualification reflects a rational distribution of responsibility between the participants who are in the best position to mitigate the harm.

It is important to note that this approach finds implicit support in the Uzbek legal framework and research, in particular in Ruzinazarov and Achilova (2023). The current legislation on e-commerce (Law of the Republic of Uzbekistan No. LRU-792, 2022; Resolution No. PP-885) (2022) treats

market operators as organized economic entities subject to registration, compliance, and consumer protection obligations, rather than as neutral hosts of information. Uzbek scholars also emphasize the active role of platforms in digital civil circulation and the hybrid nature of electronic transactions, combining elements of civil law and information technology regulation. While domestic doctrine has not yet formulated a fully developed hybrid classification, its functional reasoning converges with broader comparative trends identified in foreign research.

By taking into account the variability in platform behavior across transactional contexts, the functional approach avoids the conceptual rigidity of unitary classifications and reduces the risk of conflicting legal outcomes. It allows the same platform to be treated as an intermediary, an operator or a regulated digital participant depending on its actual involvement in the transaction in question. This preserves the benefits of protecting intermediaries where appropriate, while ensuring that platforms do not escape liability when they exercise significant control over market processes (Cohen, 2017).

Accordingly, a hybrid, function-based qualification of online marketplace operators provides a more precise, flexible and normatively sound framework for regulating digital markets. It reconciles doctrinal coherence with regulatory efficiency and offers a principled basis for aligning platform liability with modern commercial realities.

### **Conclusion**

As this article has shown, traditional intermediary-based classifications, while historically influential, are increasingly constrained by the operational realities of modern electronic markets. The degree of transactional control exercised by platforms, their ability to prevent harm, and the expanding scope of regulatory obligations undermine the assumption of platform

passivity on which intermediary immunity is based.

At the same time, the analysis shows that treating marketplaces equally as sellers or co-merchants is equally problematic. Such an approach risks imposing excessive liability in situations where the platform's involvement remains limited and may fail to account for the variability of platform functions across transactional contexts. The binary intermediary-seller dichotomy therefore proves insufficient to capture the complex and evolving role of marketplace operators in digital commerce.

After examining the main doctrinal models in relation to the criteria of control, risk allocation and internal consistency, this article defends a functional, hybrid approach to the legal qualification of online marketplace operators. According to this framework, legal liability is linked to the actual participation of the platform in the transaction structure and its ability to influence the outcomes, and not only to formal contractual participation. Such an approach allows for a differentiated allocation of liability that better reflects economic realities and supports effective consumer protection.

It is important to note that this conclusion is consistent not only with comparative legal studies but also with emerging trends in Uzbek law and doctrine. The current regulation of e-commerce in Uzbekistan treats platform operators as organized economic entities subject to registration and compliance obligations, while local scholars strongly emphasize the hybrid nature of electronic transitions and the limitations of traditional categories used in the digital environment. This indicates an implicit move towards functional reasoning, even if it is not explicitly stated as such.

Ultimately, a functional qualification of online marketplace operators offers a coherent and adaptable framework for regulating digital marketplaces. It preserves protections for intermediaries where appropriate and ensures accountability where platforms exercise significant control, thereby reducing the risk of fragmented and inconsistent legal solutions. As digital commerce continues to grow, the adoption and refinement of such an approach will be essential to maintain doctrinal coherence and legal certainty within digital private law.

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